APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/918,538	08/01/2001	Igor Muttik	550-254	3831

7590 08/10/2004	EXAMINER
NIXON & VANDERHYE P.C.	DODDS, HAROLD E

ART UNIT	PAPER NUMBER
2177	3

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DATE MAILED: 08/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _01 August 2001_.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-24_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-24_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
   Paper No(s)/Mail Date _2_.

4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of

the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g)

prior art under 35 U.S.C. 103(a).

2.   Claims 1, 3-9, 11-17, and 19-24 are rejected under 35 U.S.C. 103(a) as

being unpatentable over VanDoren et al. (U.S. Patent No. 6,085,276), Kathrow et al.

(U.S. Patent No. 6,393,438), and Sisodia et al. (U.S. Patent Application Publication No.

US 2003/0165128).

3.   VanDoren rendered obvious independent claims 1, 9, and 17 by the

following:

"...storing a more up-to-data version of said file..." at col. 17, lines 15-18 and col. 17,

lines 47-50.

"...portion determining logic operable to determine if a portion of said more up-to-date version of said file is already stored..." at col. 17, lines 47-50 and col. 17, lines 15-18.

"...within said target data processing device..." at col. 2, lines 43-48.

"...of one or more different more up-to-date versions of said file..." at col. 17, lines 47-50.

"...downloading logic operable to download said more up-to-date version of said file of said more up-to-date version of said file..." at col. 6, lines 34-40 and col. 17, lines 47-50.

"...of said more up-to-date version of said file already stored within said store..." at col. 17, lines 15-18 and col. 17, lines 47-50.

"...is stored on said target data processing device..." at col. 17, lines 15-18 and col. 2, lines 43-48.

"...said current version of said file...," at col. 34, lines 32-34.

"...with said more up-to-date version of said file..." at col. 17, lines 47-50.

"...to form a new current version of said file..." at col. 34, lines 32-34.

"...of less up-to-date versions of said file..." at col. 51, lines 22-26.

"...than said new current version of said file..." at col. 34, lines 32-34.

VanDoren does not teach the segmenting of files into portions and the use of in-range processing devices.

4.   However, Kathrow teaches the segmenting of files into portions as follows:

"...within a store of portions..." at col. 9, lines 58-65.

"...following on from any portion..." at col. 9, lines 62-65.

"...and when a full copy ..." at col. 9, lines 4-9.

"...version replacing logic operable to replace..." at col. 44, lines 10-15 and col. 5, lines

50-53.

"...and to discard from said store any portions..." at col. 5, lines 4-7 and col. 9, lines 61-

65.

It would have been obvious to one of ordinary skill at the time of the invention to

combine Kathrow with VanDoren since both VanDoren and Kathrow teach the use of

computers, the use of memory, the use of devices, the use of data, the use of updates,

and the use of current versions. VanDoren provides multiple versions of data and

Kathrow provides the segmentation of files into portions of file versions.

Kathrow does not teach the use of in-range processing devices.

5.   However, Sisodia teaches the use of in-range data processing devices as

follows:

"...link forming logic operable to form a wireless communication link with an in-range

data processing device..." at p. 2, par. 0011.

"...from said in-range data processing device..." at p. 2, par. 0011.

It would have been obvious to one of ordinary skill at the time of the invention to

combine Sisodia with VanDoren and Kathrow since VanDoren, Kathrow, and Sisodia

teach the use of computers, the use of memory, the use of devices, the use of data, the

use of updates, and the use of current versions, VanDoren and Sisodia teach the use of

networks, the use of remote systems, the use of communications, and the use of links,

and Kathrow and Sisodia teach the use of files. VanDoren provides multiple versions of

data, Kathrow provides for segmentation of files into portions of file versions, and

Sisodia provides in-range data processing devices to receive the downloaded new versions.

6.   As per claims 3, 11, and 19, the "...if said in-range data processing device...," is taught by Sisodia at p. 2, par. 0011,

the "...is storing a portion...," is taught by Kathrow at col. 9, lines 58-65,

the "...of said more up-to-date version of said file...," is taught by VanDoren at col. 15, lines 47-50,

the "...then said downloading logic is operable to download said portion...," is taught by Kathrow at col. 9, lines 58-65,

the "...of more up-to-date version of said file...," is taught by VanDoren at col. 15, lines 47-50,

and the "...to said target data processing device...," is taught by VanDoren at col. 2, lines 43-48.

7.   As per claims 4, 12, and 20, the "...if said in-range data processing device...," is taught by Sisodia at p. 2, par. 0011,

the "...is storing more than one more up-to-date version of said file...," is taught by Kathrow at col. 17, lines 15-18 and col. 17, lines 47-50,

the "...then said downloading logic is operable to download first that more up-to-date version of said file...," is taught by Kathrow at col. 17, lines 15-18 and col. 17, lines 47-50,

the "...for which it will take least time to complete a full copy...," is taught by VanDoren at col. 40, lines 66-67, col. 29, lines 56-58, col. 38, lines 64-67, and col. 39, line 1,

and the "...upon said target data processing device...," is taught by VanDoren at col. 2, lines 43-48.

8.   As per claims 5, 13, and 21, the "...discard selection logic operable to select portions...," is taught by Kathrow at col. 5, lines 4-7, col. 6, lines 5-7, and col. 9, lines 61-65,

the "...of a more up-to-date version of said file from said store...," is taught by Kathrow at col. 17, lines 47-50 and col. 17, lines 15-18,

the "...are selected for discarding from said store based upon one or more of...," is taught by Kathrow at col. 6, lines 5-7 and col. 5, lines 5-7,

the"...age...," is taught by VanDoren at col. 47, lines 67-68 and col. 48, line 1,

the "...and amount of data needing to be downloaded...," is taught by VanDoren at col. 17, lines 40-45,

and the "...to complete said version of said file...," is taught by VanDoren at col. 38, lines 64-67, col. 39, line 1, and col. 17, lines 49-50.

9.   As per claims 6, 14, and 22, the "...authentication logic operable to authenticate a download...," is taught by VanDoren at col. 12, lines 17-21 and col. 10, lines 56-69,

the "...from an in-range data processing device...," is taught by Sisodia at p. 2, par. 0011,

and the "...using a digital signature...," is taught by Kathrow at col. 10, lines 16-18.

10.   As per claims 7, 15, and 23, the "...said in-range data processing device...," is taught by Sisodia at p. 2, par. 0011,

the "...transmits to said target data processing device...," is taught by VanDoren at col.

25, lines 7-8 and col. 2, lines 43-48,

the "...information regarding a currently progressing downloading...," is taught by

VanDoren at col. 6, lines 46-49 and col. 6, lines 37-40,

the "...of a version of said file...," is taught by Kathrow at col. 3, lines 66-67 and col. 4,

lines 1-2,

the "...to said in-range data processing device...," is taught by Sisodia at p. 2, par. 0011,

the "...such that said target device...," is taught by VanDoren at col. 2, lines 43-48,

the "...may select said version...," is taught by Kathrow at col. 6, lines 5-7, at col. 3, lines

66-67, and col. 4, lines 1-2,

the "...of said file currently being downloaded...," is taught by VanDoren at col. 6, lines

37-40,

the "...to said in-range data processing device...," is taught by Sisodia at p. 2, par. 0011,

and the "...for downloading to said target data processing device...," is taught by

VanDoren at col. 6, lines 37-40 and col. 2, lines 43-48.

     11.   As per claims 8, 16, and 24, the "...said in-range data processing

device...," is taught by Sisodia at p. 2, par. 0011,

the "...also downloads a file...," is taught by VanDoren at col. 6, lines 37-40,

and the "...from said target data processing device...," is taught by VanDoren at col. 2,

lines 43-48.

12.   Claims 2, 10, and 18 are rejected under 35 U.S.C. 103(a) as being

unpatentable over VanDoren, Kathrow, and Sisodia as applied to claims 1, 9, and 17

above respectively, and further in view of Goldick (U.S. Patent No. 6,598,060).

As per claims 2, 10, and 18, the "...said file is one of:...," is taught by Kathrow at

col. 3, lines 66-67 and col. 4, lines 1-2,

but the "...an anti-computer virus definition data file..."

and the "...computer anti-virus scanning engine file...," are not taught by either

VanDoren, Kathrow, or Sisodia.

However, Golddick teaches the use of virus definition data files and the use of

virus scanning as follows:

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"For example, the log may maintain a list of resources on the
system and whether each resource has been scanned, and if so,
which version of virus definition file was used.  Using the log
of information, the virus scanner can reduce processing time by
only scanning resources that are new or modified, or that were
scanned by an out-of-date virus definition file..." at col. 2,
lines 3-9.
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It would have been obvious to one of ordinary skill at the time of the invention to

combine Goldick with VanDoren, Kathrow, and Sisodia since VanDoren, Kathrow,

Sisodia, and Goldick teach the use of computers, the use of memory, the use of

devices, the use of data, the use of updates, and the use of versions, VanDoren,

Sisodia, and Goldick teach the use of networks, the use of remote systems, the use of

communications, and the use of links, and Kathrow, Sisodia, and Goldick teach the use

of files. VanDoren provides multiple versions of data, Kathrow provides for

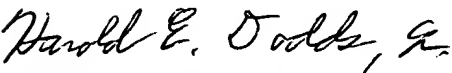segmentation of files into portions of file versions, Sisodia provides in-range data

processing devices to receive the downloaded new versions, and Goldick provides virus
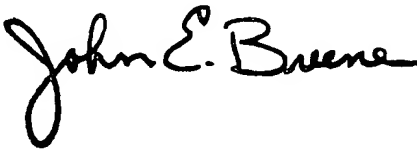
definition files and virus scanners.

Conclusion

13.   Any inquiry concerning this communication or earlier communications from

the examiner should be directed to Harold E. Dodds, Jr. whose telephone number is

(703)-305-1802. The examiner can normally be reached on Monday - Friday 8:00 -

4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John E. Breene can be reached on (703)-305-9790. The fax phone number

for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

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For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Harold E. Dodds, Jr.
Patent Examiner
March 26, 2004

JOHN BREENE
SUPERVISORY PATENT EXAMINER
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